IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY NINETH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 13188 of 2004

Between:

S.M. Lal Jan Pasha, S/o Late S.M. Tajuddin,
R/o No. 12. Banjara Hills, Hyderabad.

..... PETITIONER

AND

1.The Government of Andhra Pradesh, Rep. by its

Principal Secretary, Minorities Welfare,
Secretariat Buildings, Saifabad, Hyderabad.
2.The Commissioner of Police- Cum- Ex. Officio Member Secretary,
A.P. Haj Committee, Basheerbagh, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly, one in the nature of Writ of Mandamus declaring the action of the Government in issuing G.O.Ms.No. 17, Minorities Welfare (Wakf.I) Department, dated 21-7-2004 as arbitrary, illegal, unjust, contrary to law, without the authority of law, in violation of principles of natural justice , amounts to colourable exercise of power and contrary to the provisions of the Haj Committee Act, 2002 more particularly Sections 25 and 36 of the Act and also in violation of the fundamental rights guaranteed under Articles 14 and 21 of the Constitution of India and issue a consequential direction to continue the Petitioner herein for the entire term of three years

Counsel for the Petitioner: Mr.S.Ramchander Rao, Senior Counsel, for MR.K.R.PRABHAKAR

Counsel for the Respondents: The Advocate General

The Court made the following Order: (per Sri BRSR.J)

Heard Sri S.Ramachander Rao, learned senior counsel appearing for the petitioner and the learned Advocate General appearing for the respondents and at their request the matter is taken up for final disposal.

The petitioners invoked the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India with a prayer to issue a writ of Mandamus declaring the action of the Government in issuing G.O.Ms.No.17, Minorities Welfare (Wakf.1) Department, dated 21.7.2004 as arbitrary, illegal and unjust and contrary to the mandatory provisions of the Haj Committee Act, 2002 (for short 'the Act') more particularly Sections 25 and 36 of the Act.

By the impugned order, the Government of Andhra Pradesh removed the petitioner herein from the office of the Chair Person of the Haj Committee and also all other nominated members of the A.P.State Haj Committee with immediate effect. The order is said to have been passed in purported exercise of Section 25 of the Haj Committee, 2002.

That Section 25 of the Act itself provides a prior notice and opportunity of hearing before any such decision is taken to remove the Chair Person and as well as the persons nominated. No such procedure has been followed. It is under those circumstances, the learned Advocate General appearing on behalf of the State very fairly conceded that the impugned G.O. suffers from incurable legal infirmities being violative of the provisions of the Act. In view of such concession, no further discussion as such is necessary. The impugned G.O. is accordingly set aside.

This order shall not preclude the Government from putting the petitioner and all other nominated members of the Haj Committee on notice if it intends to proceed further in the matter.

The writ petition is accordingly disposed of. No costs.

(B.SUDERSHAN REDDY,J)

DT.29.07.2004

(K.C.BHANU,J)

msv.

ASSISTANT REGISTRAR

//true copy//

SECTION OFFICER

To,

1.The Principal Secretary, Minorities Welfare,
Secretariat Buildings, Saifabad, Government of

Andhra Pradesh, Hyderabad.
2.The Commissioner of Police- Cum- Ex. Officio Member Secretary,
A.P. Haj Committee, Basheerbagh, Hyderabad.

3.2 CCs to Advocate General, High Court Buildings,

High Court of A.P. Hyderabad. (OUT)

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